

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

HACHETTE BOOK GROUP, INC.,
HARPERCOLLINS PUBLISHERS LLC,
JOHN WILEY & SONS, INC., and
PENGUIN RANDOM HOUSE LLC

Plaintiffs,

v.

INTERNET ARCHIVE and DOES 1 through
5, inclusive

Defendants.

Case No. 1:20-CV-04160-JGK

DECLARATION OF LAUREN SHERMAN

CONFIDENTIAL

I, Lauren Sherman, declare as follows:

1. I am an educator based in Seattle, Washington.

2. I have been teaching high school English since around August 2009. I have a bachelor's degree from Santa Clara University in English with an emphasis in Shakespeare Studies, and a minor in Gender Studies. I hold a master's degree in Literature & Culture from Oregon State University, and a master's degree in Teaching, English Education (5-12) from Western Governors University.

3. Since around August 2014, I have taught English at a private Catholic high school in Seattle, Washington. The courses I have taught include English 10, Honors English 10, Honors English 11, and AP English 12, to 10th, 11th, and 12th graders. I have also served as a technology leader, helping to pilot new programs for computer use within the learning environment, and served on the diversity committee to discuss, troubleshoot, and implement policies within the school environment to support and address a diverse high school population. The school has a library which provides teachers and students access to physical books, and online resources such as the JSTOR digital library of academic journals, books, and primary sources, the Gale Virtual Reference Library, and Bloom's Literature Online. Though the school does not provide assigned books to all students—the onus is on students to obtain the books they need at the beginning of the year—the school library occasionally provides, upon request by a teacher, access to a few copies of books by purchasing physical books or OverDrive subscriptions. The library copies are intended for circumstances where a student may need temporary library access to a book, for example when purchasing books is difficult for a student due to their financial circumstances.

4. I first learned about the Wayback Machine during my undergraduate education.

5. The first time I discovered the Internet Archive's lending library was in 2018. I

had assigned one of my classes to read *Jane Eyre* by Charlotte Brontë. Upon Googling for additional resources, I found a pamphlet from 1856, titled “A Brief Summary in Plain Language of the Most Important Laws Concerning Women: Together with a Few Observations Thereon.” I assigned the pamphlet to my class for additional reading by providing the Internet Archive link. The pamphlet was a valuable resource that provided important context on the public discourse regarding women’s rights at the time *Jane Eyre* was written.

6. At the start of the COVID-19 pandemic, the school shifted to a fully remote model whereby all classes were taught using Microsoft Teams video conferencing. On or about February 2020, students were no longer permitted on campus and the school instructed students to take home materials from their lockers for the next few weeks. I personally instructed my students to take home any materials they would need for the rest of the unit of study, covering *The Great Gatsby* and Emily Wilson’s translation of *The Odyssey*. I estimated remote learning would last another 4-6 weeks. When it became clear we would be teaching and learning remotely longer than 4-6 weeks, I became concerned that we would not be able to cover the assigned material in the subsequent units because students did not have access to their lockers. For safety reasons, the school campus was closed to students. I also knew that some of my students who normally relied on the public library and school library for books were not able to do so because those libraries were also closed during the pandemic for safety reasons.

7. One book I taught during the COVID-19 pandemic was *Much Ado About Nothing*, a comedic play by William Shakespeare, which I have taught several times over the years. I had assigned the book at the start of the year to each of my four English 10 classes. I had about 22 students in each of my English 10 classes, and so approximately 88 students who needed the book. When I have taught *Much Ado About Nothing* in the past, I have typically used

the Folger's edition, which provides notes on Shakespeare's original text. In my experience, the notes in Folger's edition is crucial to student comprehension of Shakespeare's text. I had assigned the Folger's edition in my students' book lists at the beginning of the school year before the start of the COVID-19 pandemic, and so the expectation was that, by the time we began that unit, the students would have their own copy of, or access to, the book. As the unit approached, I took a virtual poll in my classes and learned that about 50% of my English 10 students did not have the book at home. It is my understanding that they did not have the book at home because, even though they had purchased the book, it was in their school lockers, which they were forbidden from accessing. Because approximately half of my students did not have access to the book, I searched for and found the Folger's edition of the book with notes on the Internet Archive. I also discovered that in reaction to the closure of schools, libraries, and bookstores across the country during the COVID-19 pandemic, the Internet Archive had temporarily lifted its restrictions on the number of people who could borrow a digitized book at one time. I therefore provided the Internet Archive link to the Folger's edition of *Much Ado About Nothing* with notes to my students as an option for access, in addition to other options including re-purchasing another copy of the book, downloading the full text from Folger's website without the notes, or attempting to check out the book digitally from the public library. To the best of my knowledge, I believe some of my students used the Internet Archive link for my class. I also used the Internet Archive version to share my screen during a remote class where I normally would use a document camera in class to project a book excerpt for class discussion.

8. During the COVID-19 pandemic, I also recommended the Internet Archive's lending library to a student who was looking for resources from the 1920s for a thesis regarding fashion and *The Great Gatsby*.

9. Prior to the COVID-19 pandemic, I did not consider using the Internet Archive's lending library to provide access to assigned books for my classes because the number of copies available for access at once, as well as the borrowing time limits, were too restrictive for the classroom setting.

10. In my experience, physical books are superior to digital books in the classroom setting. Over the years, I have observed that student attention decreases when using digitized books and it is more difficult for students to take useful notes when using digitized books. Accordingly, in the classroom, I strongly prefer physical books over digital books.

11. I do not support the use of piracy sites to gain access to books. I teach my students to avoid piracy sites by instructing them to avoid websites that allow the user to download, without having to return, the full text of a book, and websites that show frequent advertisements or otherwise look illegitimate.

12. As a teacher and an avid reader myself, I have always respected the rights of authors and publishers.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on March 8, 2022 in Seattle, Washington.



LAUREN SHERMAN

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2022 the within document was filed with the Clerk of the Court using CM/ECF which will send notification of such filing to the attorneys of record in this case.

/s/ Joseph C. Gratz
JOSEPH C. GRATZ